THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.27581 OF 2005

-

Dated: 26-12-2005

-

Between

Dr. Bala Siva Yogendra Maharaj @ Thota

Eswara Vara Prasad, S/o. late Thota Roshaiah

R/o. Kurnool Town and District.

...PETITIONERS

AND

The District Collector, Kurnool and others.

...RESPONDENTS

ORDER:

-

-

Petitioner seek a Writ of Mandamus to declare the action of the respondents in taking steps for demolition of the structures constructed in an area of 26 cents of land in S.No.445/1 and 442/1, A1-B1 and A1-B2 of Kallur Village, Kallur Mandal, Kurnool District without issuing any notice and without following due procedure prescribed under law as illegal and arbitrary.

Learned counsel for the petitioner submits that the Kallur Village has become part of Kurnool Town due to the expansion and upgradation of Kurnool Municipality into a Municipal Corporation.

In view of the traffic congestion and to have free flow of traffic the Kurnool Municipal

Corporation has decided to widen the roads. Learned counsel for the petitioner further submits that the petitioner is not at all against the road-widening programme of the respondents and he has no objection for the said programme if the said land is acquired and if proper compensation is paid.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for the structures or the land and without following due process of law, are threatening to demolish the existing structures of the petitioner for the purpose of road-widening.

The learned counsel for the petitioner further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, 1894 is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess him without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act. No costs.

_____

V. ESWARAIAH, J

December 26, 2005

Note: Furnish C.C. of the order by 27.12.2005

(**B**/**O**)

DSK